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April 16, 2020

Via ECF

The Honorable Brian M. Cogan
United States District Judge
U.S. District Court for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *United States v. Genaro Garcia Luna*, 19 Cr. 576 (BMC)
Appeal from Denial of Application for Release Pending Trial

Dear Judge Cogan:

With this letter, Mr. Garcia Luna respectfully appeals the denial of his motion for release pending trial. Following a bail hearing conducted over two days on February 27 and 28, 2020, Magistrate Judge Robert M. Levy considered a proposed bail package. *See* February 27 and 28, 2020, transcripts (enclosed herein). After hearing lengthy argument and conferring with Pretrial Services, Magistrate Judge Levy concluded that there could be conditions that would reasonably ensure Mr. Garcia Luna's return to court but he felt that the package needed to be more robust. *See* February 28, 2020, transcript at 32. The government's initial detention memorandum, Mr. Garcia Luna's initial bail application, and the government's opposition are enclosed herein.

Accordingly, by application submitted on March 25, 2020, Mr. Garcia Luna proposed an enhanced bail package. Mr. Garcia Luna proposed that he be released on a two million dollar personal recognizance bond secured by: (1) ten individuals (seven financially responsible and three for moral suasion) all of which have been approved by Pretrial Services as appropriate co-signers; (2) a property owned by Mr. Garcia Luna worth approximately \$1.2 million; and (3) four properties owned by co-signers (three of which are their residences) worth approximately \$2.2 million collectively. Additionally, Mr. Garcia Luna would also be subject to standard Pretrial Services supervision with the addition of location monitoring. He would reside in the Washington, D.C. area with his family (or New York City if the Court required). The government opposed the application. The renewed bail application and the government's opposition are enclosed herein.

The Court referred the application to the duty magistrate and on March 31, 2020, the Honorable Magistrate Judge Ramon E. Reyes held a bail hearing. After hearing argument from the parties, Magistrate Judge Reyes disagreed with Magistrate Judge Levy and found that he believed that

there were no conditions or combination of conditions that could ensure Mr. Garcia Luna's presence in Court. Therefore he denied the bail application. *See* March 31, 2020, transcript at 25 (enclosed herein). He further denied Mr. Garcia Luna's request for temporary release in light of his respiratory condition and the circumstances of the COVID-19 global pandemic. *Id.* at 36.

We now respectfully appeal Magistrate Judge Reyes's decision and ask this Court to grant Mr. Garcia Luna bail pending trial or temporary release on the conditions proposed by the defense to Magistrate Judge Reyes or conditions appropriate to the Court.

Furthermore, we request that the Court decide this application on the papers given the affect the COVID-19 pandemic has had on court operations and the parties' inability to make in-person court appearances.¹ This issue has been fully briefed and argued by the parties. We respectfully submit that the parties' prior filings and the transcripts of the prior proceedings are sufficient for this Court to rule.

Respectfully submitted,

/s/

César de Castro
Valerie A. Gotlib

cc: Michael P. Robotti
Ryan Harris
Erin Reid
(Assistant United States Attorneys *via* ECF)

¹ I have been unable to speak with Mr. Garcia Luna since March 31, 2020, despite my repeated requests to the Metropolitan Detention Center. In the time my request for a legal telephone call has been pending (13 days), I have scheduled and conducted three legal calls with other clients detained at the MDC. Therefore, I have not been able to explicitly obtain Mr. Garcia Luna's consent for the Court to decide this matter on the current record, if his consent is necessary. I have reluctantly communicated it *via* the prison email system, however, given the current state of affairs at the MDC, I am not confident I will receive a timely response. I have only been receiving emails from him and other clients sporadically. Based on my prior communications with Mr. Garcia Luna and my communications with his family, I believe it would be in accord with his wishes. I will continue to press the MDC to schedule a legal call and I will continue to email with him.